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April 26, 2012

California Water Boards
Attn: W. Dale Harvey
1685 "E" Street
Fresno, CA 93706

Re: Lamont Public Utility District Wastewater Treatment Facility

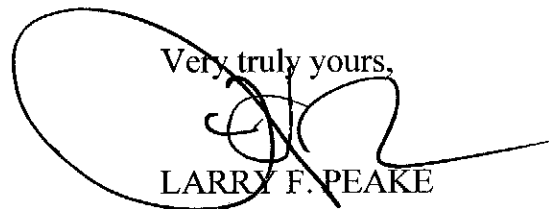
Dear Mr. Harvey:

Please find enclosed the Lamont Public Utility District's submittal in response to the Tentative Order of March 23, 2012.

Please note that with respect to the confidentiality provisions that your Board may disregard same. Following our discussion in your telephone call of April 26, 2012 I obtained authorization from LPUD's general manager to waive the confidentiality request since you advised that this would be an impediment to your Board's consideration of this submittal.

If anything further is needed by your Board, please do not hesitate to advise.

Very truly yours,

A handwritten signature in black ink, appearing to be "LFP", is written over the typed name "LARRY F. PEAKE".

LARRY F. PEAKE

LFP:igw
Enclosure

cc: - Larry Pennel (w/o enclosure)
Jose Cruz (w/o enclosure)

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March 1, 2012

Via UPS Overnight

Lonnie M. Wass
Regional Water Quality Control Board
Central Valley Region
1685 "E" Street
Fresno, CA 93706

Re: Lamont Public Utility District

Dear Mr. Wass:

This correspondence shall serve to respond to the California Regional Water Quality Control Board ("Control Board") February 6, 2012 correspondence.

This is provided on condition that it be held confidential and not disclosed to third parties but used exclusively by the Control Board as the materials contained and submitted to the Control Board are substantially the result of attorney work product in conjunction with pending litigation in Kern County Superior Court entitled Community Recycling and Resources Recovery, Inc. and Lamont Public Utility District vs. County of Kern, Case No. S-1500-CV-275272-EB.

No copies of this document or enclosures are to be made nor disseminated without the expressed approval of the undersigned on behalf of Lamont Public Utility District nor its contents discussed with any individual outside the Control Board. In particular, because this matter is subject to pending litigation and the research and analysis contained herein was done in conjunction with potential litigation and/or pending litigation, and due to attorney/client privilege and work product protections applicable to the research and analysis done on behalf of the Lamont Public Utility District through its Board of Directors, no third parties or other entities, particularly including, but not limited to, Community Recycling

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and/or County of Kern are to be advised of the contents of the enclosures or this correspondence, which are provided specifically and exclusively for the Control Board in response to its February 6, 2012 directive to the District pursuant to California Water Code Section 13267.

Two issues have been requested to be addressed by the Control Board: (1) a report describing all activities the District has pursued to obtain interim disposal capacity consisting of a summarizing of contacts made with regulatory and planning agencies, local farmers and others that may be able to help the District dispose of its effluent; and (2) technical report describing a contingency plan with proposed implementations as scheduled for long term disposal capacity without discharge to Community Recycling as composting facility.

It is the understanding of the undersigned that the Control Board has advised the District's contracted engineers, AECOM, through engineer Nick Turner is authorized to submit the technical report, and it is enclosed.

I.
ACTIVITIES OF DISTRICT TO PURSUE INTERIM
DISPOSAL CAPACITY

A summary is as follows:

Initiation of pursuit of possible alternatives began prior to the November 15, 2011 hearing before the Board of Supervisors in response to notification of notice to abate public nuisance. Meetings were established with County personnel and discussions occurred with Charles Lackey, Matt Constantine, Laurel Oviatt, Karen Goh and Zack Scrivner and Mike Maggard. LPUD Board Representative, General Manager Larry Pennell, District Engineer Nick Turner, and the undersigned met with and/or spoke by telephone on multiple occasions with representatives of the County of Kern regarding the District's use of Community Recycling as a disposal site for its effluent, noting the historic approval and participation in the decision making process in the early 1990's with the County of Kern and Regional Water Quality Control Board, including obtaining of CEQA compliance in conjunction with use of Community Recycling as the proposed recipient of district effluent. Discussions occurred with County representatives at multiple meetings and conference calls concerning any proposed revocation of Community Recycling's conditional use permit and the implications for Lamont Public Utility District, including the estimated time for finding an alternative disposal site and the cost of obtaining an alternative disposal site, those estimates preliminarily being in the range of in excess \$5 Million and approximately one year time need to obtain an alternative disposal site.

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Representatives of Lamont Public Utility District were advised by Supervisor Scrivner in a meeting prior to the November 15, 2011 hearing before the Kern County Board of Supervisors that LPUD did not need to be concerned with the potential revocation as no revocation of the permit was being contemplated.

The submittals of the County staff were reviewed with the County staff not recommending revocation of Community Recycling's conditional use permit ("Permit"), but rather recommending only modifications of the Permit and consideration of fine of Community Recycling.

Attendance was made by District representatives and presentations made at the November 15, 2011 hearing of the Board of Supervisors, with the Board of Supervisors, inter alia, following reiteration by the District's representatives as had previously been made to County staff and multiple County Supervisors that existing capacity was limited to approximately 46 days for LPUD should Community Recycling not be allowed to take the District's effluent, that - - based upon representations by County staff that the District had multiple, available alternatives for its effluent to Community Recycling - - that the Permit would be revoked.

The Lamont Public Utility District ("District") then, through its Board President, Jose Cruz, called an emergency meeting to authorize the preparation of two reserve ponds to hold the capacity of approximately 46 days in response to the unanticipated action by the Kern County Board of Supervisors to revoke Community Recycling's Permit.

Contacts were made by District representatives with Pearson Realty purchase of property located to the south of Bear Mountain Blvd., (SR 223), properties being for sale to the south of the District's wastewater treatment plant facility as located on the north side of Hwy. 223 and to the west of SR 184. Status of approximately 597 acres was discussed with Pearson Realty, including desire of the seller to utilize a 1031 Exchange and availability of the property for sale, including to the District, but the cost for purchase of the property being approximately \$10 Million.

Contacts were made with multiple recycling companies based upon discussions with the County representatives that there was no objection by the County to the use of composting as the recipient for the Lamont's effluent: County's objection was to Community Recycling continuing as the operator of the recycling facility.

District personnel, including General Manager Larry Pennel, Office Manager Tracie White, and the undersigned had multiple contacts with various alternative recyclers, who indicated desire of confidentiality of their interest, disclosed herein based upon the strict condition that

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this submittal and the enclosures and the contents of this submittal not be disclosed to any third parties, as above set forth.

Sierra Recycling & Composting was engaged in discussions regarding potential assignment of Community Recycling's position as the operator of the composting facility. Information regarding the composting facility and the District's effluent disposal were communicated with Sierra Recycling & Composting.

Historical documents were pulled and reviewed following the revocation of the Permit. AECOM's predecessor, Boyle Engineering, studies, including 2000 and 2003, and discussions with Community Recycling's attorney occurred.

Maps were pulled and reviewed. Discussions were initiated with the Haagsma/Pinheiro Dairy representatives.

California Integrated Waste Management Board documents were reviewed. Calls were placed and messages left with Haagsma Dairy regarding potential use of its property as a disposal site.

Multiple conversations occurred with Pearson Realty representatives and information was received from Pearson Realty regarding potential utilization of the properties to the south and southeast of the wastewater treatment plant facilities occurred.

Research was done regarding attempts to determine existing pipeline and infrastructure from historic documents and discussion with individuals potentially having information regarding same.

Information was obtained from David Haagsma regarding water testing by the dairy and the dairy's potential capacity to accept effluent.

Discussions occurred with Bill Camarillo as a potential operator of the composting plant through his company.

Telephone calls and conferences were discussed with the Office Manager and Engineer, as well as Baron Gebhard and Dave Haagsma of Haagsma/Pinheiro Dairies regarding status of ponds, location of water lines, and multiple inspections of properties were made. Searches were made regarding status of adjoining properties at and nearby the wastewater treatment plant with District personnel, including concerning potential discharge of effluent on such properties.

Historic documents were further pulled and reviewed, including Kaiser documents regarding lease and utilization of effluent historically (in the 1990's) from the District.

Historic discharge orders, maps, and leases were reviewed and analyzed for possible alternative effluent sites.

Ongoing discussions were made with Community Recycling and its attorneys regarding status of the litigation and ability of Community Recycling to continue to accept the District's effluent following revocation of the Permit. Freeboard status of ponds was monitored in conjunction with the emergency conditioning/preparation of the two reserve ponds located immediately to the north of Hwy. 223 were made.

Prior Board member and President Gilbert Alaniz was consulted regarding alternative disposal sites and discussions occurred with Kern County Counsel requesting a stay of the revocation of the Permit to provide additional time so that the ponds did not overflow onto Hwy. 223. This request was denied.

The existing ponds reached freeboard as efforts to find an alternative disposal site and obtain funding for an alternative site continued, including discussion with County Counsel regarding potential funding from the County for use in securing an alternative site, since Community Recycling's right to take effluent was reported to be subject (by Community Recycling's attorneys) to a 30 day closure period.

Continued contacts and calls with Haagsma Diary as a potential alternative disposal site occurred.

Discussions occurred with the City of Bakersfield staff (City Attorney, Steve Teglia, Louis Son, Raul Rojas) regarding statement by County staff that the City of Bakersfield would accept the District's effluent. Two meetings occurred with the City of Bakersfield staff, including by District Manager Larry Pennell. County personnel advised District personnel that the City could not take the District's water due to analysis of Lamont's effluent testing. See, in this regard, declarations submitted in the above-referenced Kern County Superior Court Writ of Mandate (declarations by General Manager Larry Pennell and District Engineer Nick Turner).

Contacts were made and efforts pursued regarding possible use of the Koostra Diary property as an alternative disposal site. Discussions occurred with Lori Loder regarding utilization by her company/employer as an alternative operator, potentially acceptable to the County of Kern, as an alternative to Community Recycling as the operator of the composting facility.

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Discussions occurred with Jerry Tyler regarding possible assistance in resolving the effluent disposal issues.

Multiple contacts were made with Synagro as an alternative composting facility operator. Further contacts with Koostra Dairy as an alternative were made.

Investigation of Holloway Recycling as a possible alternative recycling company to Community Recycling was made based upon the Kern County position that they would not accept Community Recycling as the continuing operator of the composting site in conjunction with maintaining the conditional use permit.

Efforts continued to locate and analyze historic lease documents, attachments and exhibits to same dating back to the early 1990's. Further efforts occurred regarding attempting to locate pipeline locations for sewage disposal. Contacts continued with potential for stipulation by the County of Kern to stay revocation of the Permit to allow Lamont Public Utility District time to find an alternative disposal site for its effluent and funding to accommodate infrastructure and related costs for such alternative (all requests denied).

Contacts with Air Resources Board were made regarding potential assignability of any permitting requirements by the Air Resources Board to Community Recycling to an alternative composting company.

Impacts of CEQA requirements were analyzed regarding potential impediment(s) to District's efforts to find an alternative disposal site, including the applicability of the Project definition under CEQA to District use of an alternative disposal site.

Discussions with Synagro, including meeting and site inspection with Synagro representatives was conducted.

Discussions were made regarding possible joint powers agreement with the County of Kern on possible joint operation of the composting facility by the District and the County of Kern.

Further discussions occurred with Jerry Tyler and Haagsma Dairy representatives regarding possible alternative disposal sites. Calls were made with Regional Water Quality Control Board regarding water test results and alternative disposal of the effluent.

Further discussions occurred with Mr. Koostra regarding utilization of Koostra Dairy as an alternative disposal site (request rejected).

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Communications (e-mail, etc.) with Pearson Realty continued regarding possible obtainment of properties located to the south, terms and costs for the properties (two separate parcels) being marketed for sale.

Review and discussion of comparable sales occurred, including further discussions with Robb Stewart, realtor, regarding alternative properties for disposal sites.

Further discussions occurred in confidentiality as possible settlement negotiations with Community Recycling's attorneys as to use of Synagro as a transferee/purchaser of the composting facility from Community Recycling.

Possible retention of Martin Hansen as a consultant and further calls with Jerry Tyler occurred regarding potential location of alternative disposal sites.

Contacts with property owner/farmer Mike Dake occurred regarding possible use of his acreage to the west of the Lamont wastewater facility. Discussions occurred with Community Recycling regarding possible use of 640 acres of winegrape property owned by Fryer Family Trust as alternative effluent disposal site.

Discussion and review of issues relating to potential liability and exposure to District with respect to use of alternative disposal site occurred, including potential breach of contractual obligation to Community Recycling to use of Community Recycling as its disposal site.

Further discussions occurred with Bill Camarillo regarding utilization of Mr. Camarillo's company/Agromin as an alternative to Community Recycling.

Further discussions occurred with Mike Dake regarding utilization of his property for partial remediation of Community Recycling as the effluent disposal site.

Further review and analysis of CEQA requirements for CR&RR closure and Regional Water Control Board issues occurred. Discussions occurred with Citizens for a Better Arvin.

Dominic Patino was retained as consultant for the District in conjunction with the pending litigation above referenced. Further discussions occurred regarding utilization of Haagsma Dairy land and multiple impediments to the potential use of the Haagsma/Pinheiro Dairy as the effluent disposal site.

Additional contacts occurred with Bill Camarillo regarding potential meeting and action plan for possible purchase by Mr. Camarillo of Community Recycling's composting operation.

Review of Title 22 status and impacts upon the pending litigation and obtainment of alternative effluent disposal site were made.

Contacts and conference calls with Dominic Patino and engineer Nick Turner regarding alternative disposal site and conditions which needed to be met for any potential disposal site were discussed.

Multiple and ongoing conferences and communications occurred among staff. Discussions occurred with Senator Mike Rubio and his staff/representative regarding possible replacement of Community Recycling and impediments to locating an alternative disposal site and alternative to Community Recycling.

Further investigation of water lines and plans were reviewed regarding possible sites by the Ski Lakes (to the south of Community Recycling's leasehold property) occurred.

Further review of information provided from real estate brokerage regarding possible alternative lands was made. Analysis of maps was further pursued regarding pipelines and availability of alternative lands for effluent disposal.

Board meetings were held and directions given by the Board of Directors and instructions by the Board of Directors on the Board's position regarding the pending litigation and potential for suit against the Board if effluent were not provided pursuant to and consistent with lease requirements to Community Recycling. Discussions occurred with Community Recycling regarding Community Recycling reservation of any and all rights against the District to sue the District for damages if, during the pendency of the litigation with the County of Kern, the District failed to continue to provide effluent as requisite for Community's operation of its composting facility.

Meetings and communications continue regarding location of water lines and infrastructure, including Boyle Engineering drawings (historic, dating back to 2007).

Discussions occurred further with Mike Dake regarding potential use of his property as an alternative disposal site.

Discussions with Clint Hilderbrand and Mike Popochek were made regarding short term solutions, water test results, Title 22 and related issues. Further calls with Dominic and discussions with Dominic Patino on such issued continued.

Review and analysis was done regarding implication of Proposition 218 on expenditure of District funds for use in implementing infrastructure and/or purchase of property and/or for

alternative disposal of its effluent as an alternative to Community Recycling.

Attendance at public meeting called by Senator Rubio by District representatives occurred.

Public meetings were held, including Special Meeting at David Head Center, requesting input from the public on information as may be known by well known members of the public on alternative disposal sites, including possible farmland and/or farmers who might be in a position to work with the District towards providing an effluent disposal site.

Further discussion occurred with Mr. Pinheiro regarding potential for Haagsma/Pinheiro Dairy to be used as an alternative disposal site for some of the District's water (Haagsma/Pinheiro advising it would not accept the District's effluent); discussions occurred with Haagsma/Pinheiro Dairy representatives regarding impediments to the dairy accepting District effluent.

Further consideration of Synagro as an alternative to Community Recycling occurred.

State Assemblyman David Valladeo contacts to obtain information from District occurred and Assemblyman Valladeo's questions regarding the use of the composting facility for accepting the District's effluent occurred.

Further review of maps were done regarding possible use of additional Fry properties occurred, and further discussions with Community Recycling's attorneys regarding using five Fry properties for effluent "backup plan."

Further conference call with David Valladeo regarding possible alternative to Community Recycling, including possible funding occurred (discussions of possible funding also with Senator Rubio's representative, Leticia Perez).

Further review and analysis of lease documents occurred regarding possible breach issues by District utilization of an alternative disposal site if located.

Further communication with Mike Popovich and with District Engineer, including further review of drawings relating to possible alternatives for effluent occurred with Mr. Popovich and engineer Nick Turner.

Discussions occurred with Community Recycling regarding Community Recycling's statement that the lease documents required the District, until the Permit might ultimately be revoked with Community Recycling's position being that no revocation of the permit could properly take place due to there having been no zoning violation on the subject property and

no basis for potential revocation of its Permit occurred with Community Recycling advising of potential suit and not only against the District but others for interference with contractual relations and other potential exposure to District and others should the District send its effluent to others until the ultimate determination by the court in the pending civil action be resolved.

Further discussions occurred with Senator Mike Rubio, attorney Janis Scanlin, Dominic Patino and engineer Nick Turner regarding alternatives, estimated costs and time for finding an alternative to Community Recycling.

Maps and drawings were provided to the County of Kern personnel for use in attempting to find an alternative disposal site for the District's effluent.

Further discussions occurred with Community Recycling in conjunction with possible settlement resolution of the pending litigation regarding use of the 640 acres to the south of Community Recycling's leasehold interest, and issuance of an option to purchase and lease on the 640 acres owned by Fry Family Trust.

Further review and analysis and efforts to obtain historic documents regarding all leases, amendments and draft leases (including in 2005) and USDA documents took place.

Further review and analysis of CEQA documents were reviewed.

Additional discussions with former Board President Gilbert Alaniz regarding leasehold documents and alternative disposal sites and possible mechanisms for resolution of the District's predicament in which it had been placed by the County's actions occurred. Further discussions and considerations took place regarding financial impact on the District's rate payers should funding from the County of Kern, State of California or alternative source not be obtained.

Results of the meeting with the City of Bakersfield, District representatives and County of Kern (joint meeting) were reviewed regarding the City's determination that it was not in a position to accept District effluent, that if any effluent could be accepted should water test results become compatible that the District would have to incur the cost of placing a line approximately three to four miles to the City of Bakersfield's property at its northwest corner (with estimated cost of \$3 Million or more).

Further review and analysis of impacts of Public Resource Code Section 21167 et seq. were done. Potential extension of the lease for an additional 20 year period were discussion as part of potential settlement negotiations with Community Recycling, in conjunction with further

exploration of possible lease of approximately 600 acres by the District of Fry Family Trust property.

Discussions continued to be had with District Board of Directors and directions by the Board of Directors to District staff were ongoing regarding potential alternative disposal sites, impediments to use of various properties (alternative disposal sites), potential suit by Community Recycling against LPUD and others; increasing search by District staff members to a radius of three miles; lack of funds available consistent with Proposition 218 to the District to fund the cost for infrastructure to carry effluent from the wastewater treatment plant; need for CEQA compliance; need for Title 22 compliance; potential cost of pipelines, lift stations, and other infrastructure to transport effluent beyond the wastewater treatment plant, including to a distance of three miles.

Further discussions occurred with Community Recycling, Mike Dake, Dominic Patino regarding alternative effluent disposal sites and possible use of tertiary treatment plant as alternative to land and land purchase and farming was silage/alfalfa. Discussions with General Manager and investigation by General Manager of costs and use of treatment plant facility; possible use of treatment plant facility with water to be provided to other agencies.

Further site inspections regarding surrounding properties, crops on such properties, ownership of properties, and conclusion of lack of suitability/availability, even through use of eminent domain, of surrounding properties, particularly in light of multiple conditions/impediments involving significantly, but not limited to (1) costs and (2) time for resolution of impediments/conditions to use of alternatives to disposal, with percolating ponds and use of property for placement of percolating ponds, purchase or lease of farmland within a three mile radius of the wastewater treatment plant, or purchase of a treatment plant.

Further review of historic documents occurred, including acceptance by the County of Kern and wastewater quality Control Board of the use of Community Recycling as the disposal site for District's effluent with a closure procedure to be utilized upon termination of the lease between District and Community Recycling and acceptance by Control Board, based upon review and understanding of historic documents, of such mechanism in conjunction with Community Recycling accepting the District's effluent, dating back to the early 1990's.

Multiple inquiries were made of County of Kern, including its attorneys, regarding their efforts directed to securing of an alternative or alternatives to the District for disposal of its effluent relating to the County's revocation of Community Recycling's permit. The County of Kern advised, through its attorney, that it could not disclose that information to the District due to pending litigation. In a declaration filed in the pending Kern County action, by a member of County staff, suggestion was made that the City of Bakersfield would take the

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District water (such statement being inconsistent with what City personnel advised District personnel), or possible use of Haagsma/Pinheiro property (the Dairy advising, however, that they would not accept District effluent), percolating ponds (the District not having such percolating ponds, property or infrastructure in place for use of percolating ponds).

District has provided the County with its maps and lease documents as requested by the County, but has received no feedback or input from the County or its staff regarding any useable alternative disposal site for District effluent.

In conjunction with the pending Kern County Superior Court litigation, one informal settlement conference with Community Recycling, County of Kern, and Lamont Public Utility District representatives, and one formal settlement conference involving all such parties have occurred. The contents of such negotiations and discussions, including any discussions regarding resolution of Lamont's effluent disposal site issues as an alternative should Community Recycling cease operations, are not discloseable due to confidentiality rules.

The foregoing is a summary only and is not exhaustive.

II.

CONTINGENCY PLAN/PROPOSED IMPLEMENTATIONS SCHEDULED

The District's "Contingency Plan" principally is as originally proposed and accepted by all involved parties: upon termination of the Community Recycling lease, a Closure Plan is then to be proposed to the Control Board for approval.

It would be parenthetically noted by the District that the District is unaware of any "Contingency Plan" utilized by a Kern County entity exists as being requested. The City of Bakersfield by way of example, has 5,000 reported acres of land it utilizes for effluent disposal, but that land is believed to be located in a flood plane and is potentially subject to being unusable should sufficient flood waters occur.

Kern Sanitation is not believed to have any "Contingency Plan" should its facility become unusable for some alternative reason.

It would be further parenthetically noted that Community Recycling has continually expressed substantial confidence that the existing conditional use permit will not be revoked by the Court, for multiple reasons, most principally, as asserted by Community Recycling's attorneys to the District, that there has been no violation of the conditional use permit on the leased property which accepts the District's effluent.

It would also be noted that the Administrative Record relating to the pending action has not yet been prepared. Depending upon the Court's briefing schedule and setting of a hearing date, the possible, ultimate revocation of the Permit¹ will most probably not occur, in the best estimate of the undersigned earlier than 6 to 12 months from the case management date approximately one month from the present, with any appeal thereafter most probably taking approximately one year. The Court has issued a Stay Order on this matter, and Community Recycling continues to accept the District's effluent pursuant to the existing lease documents as it has since the early 1990's.

However, assuming, arguendo, that ultimately the Permit is successfully revoked by the County of Kern after expiration/exhaustion of appeals by Community Recycling (potentially as long as two years from the present date), the District has and continues to consider multiple alternatives, all of which are subject to multiple issues:

1. Costs, potentially in the range of \$8 Million to \$40 Million, depending upon which alternative is selected; and
2. Time.

As Control Board is aware, Title 22 compliance is required with any alternative to utilizing Community Recycling. CEQA compliance is required. Property taken by eminent domain will require suit by the District, if not voluntarily provided.

The best alternative remains that as contemplated by the lease:

1. In the event that the lease is terminated, Community Recycling will wind down its operation and the District will recovery the use of its acreage for use in planting silage. Any remaining property as may be needed as a disposal site can be obtainable by the District if necessary at that time through purchase or lease.

¹ Community Recycling and Fry Family Trust attorneys have repeatedly reiterated their high level of confidence that they will prevail with respect to the County of Kern's current attempt to revoke Community Recycling's permit. Note, in this regard, the Court's concurrence with Community Recycling's positions it has expressed thus far during the course of the pending litigation, including with respect to the granting of two orders staying enforcement by the County of its attempt to revocation of Community Recycling's conditional use permit.

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Assuming the District will ultimately have approximately 400 acres available to it on its own property following closure by Community Recycling, the use of condemnation power (if necessary) the District can acquire any additional needed acreage from property immediately adjoining the District. Such farmland exists with gravity flow immediately to the south and east (and west) of District owned property.

Also contemplated by the District, however, is the potential for obtaining funding through alternative source(s) for purchase of a treatment plant. Initial estimates in such regard as obtained by General Manager Larry Pennell were \$12 Million and more recent estimates are apparently in the range of \$40 Million, depending upon the nature and extent of infrastructure and treatment plant facility purchase.

Present land values, from review, appear to be in the range of \$10,000.00 per acre for farmland in the area adjoining the District's wastewater treatment plant. Existing rate structure pursuant to Proposition 218 approval as was obtained approximately five years ago through vote by the District's constituents does not contain allocation of funds sufficient to cover infrastructure and purchase of property or wastewater treatment plant facility. It is contemplated that, absent resolution through settlement of the pending litigation or obtainment of alternative funding source(s), a rate increase for sewer fees will be required. That increase will necessitate a Proposition 218 submittal to the District's constituents as was done approximately five years ago.

Depending upon the nature of the alternative to Community Recycling, the estimate time for securing such alternative is a minimum of one year and, with respect to treatment plant installation, potentially as long three years, according to presently received information.

If anything further is desired by the Regional Water Quality Control Board on this matter, please do not hesitate to advise General Manager Larry Pennell.

The foregoing and enclosures by District personnel, including Nick Turner, are again submitted as confidential documents based upon the pending litigation in which the District is involved with Community Recycling and the County of Kern, and they are not to be communicated orally or in writing to any third parties including, but not limited to, Community Recycling and/or County of Kern or personnel or either entity.

Respectfully submitted,

LARRY F. PEAKE

LFP:pjt

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6 Larry F. Peake, SBN 082626
7 Attorney for Petitioner and Plaintiff and
8 real Party in Interest, Lamont Public Utility District

10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF KERN, METROPOLITAN DIVISION**

13 COMMUNITY RECYCLING &
14 RESOURCE RECOVERY, INC., a
15 California Corporation and LAMONT
PUBLIC UTILITY DISTRICT, a public
entity,

16 Petitioners/Plaintiffs,

17 vs.

18 COUNTY OF KERN, a public entity, and
19 DOES 1 through 100, inclusively,

20 Respondents/Defendants.

CASE NO. S-1500-CV-275272-EB

DECLARATION OF LARRY F. PEAKE
IN RESPONSE TO THE COUNTY OF
KERN'S OPPOSITION TO STAY OF
ORDER REVOKING CONDITIONAL
USE PERMIT

Date: 1/24/12
Time: 8:30 a.m.
Dept. 2

Judge: Honorable Eric Bradshaw

21 I, Larry F. Peake, being duly sworn, depose and say and if called as a witness am
22 competent to testify to the following except as to matters stated to be under information and
23 belief and, as to such matters, I am informed and believe they are true:

- 24 1. I make this declaration in support of the Lamont Public Utility District's Reply
25 Brief in support of the District's request for an extension of the Stay Order against
26 the revocation of Community Recycling & Resource Recovery, Inc.
27 ("Community") Conditional Use Permit by the County of Kern.
28

- 1 2. I am an attorney at law duly licensed to practice in all Courts of the State of
2 California. I am the attorney with my office primarily responsible for the handling
3 of the representation of Lamont Public Utility District.
- 4 3. Lamont Public Utility District is a duly incorporated Public Utility District
5 upgrading within the State of California. It has a defined jurisdictional area
6 approved by local agency formation commission, subject to periodic amendments
7 which have resulted in inclusion of additional areas of its jurisdictional
8 boundaries.
- 9 4. Lamont Public Utility District provides, among other services, sewer service to the
10 residents within its jurisdictional boundaries located generally in the
11 unincorporated area of the County of Kern called Lamont.
- 12 5. I have been personally involved in the representation of Lamont Public Utility
13 District since approximately 1998. Based upon my personal knowledge, I am
14 familiar with Community's use and acceptance of effluent from the District. I am
15 informed and believe that while the District has approved capacity of up to 3.25
16 million per gallons per day, that its average effluent flows range from between 2.1
17 million and 2.8 million gallons per day of effluent, of which Community
18 Recycling, I am further and informed and believe, accepts approximately 1.7
19 million gallons per day on average.
- 20 6. I have personally been to and been involved in inspection and survey of
21 Community Recycling's operations on multiple occasions. I am familiar with an
22 area which is defined by two leases and a total of three amendments to those
23 leases, executed in 1993, 1996 and 2000, that Community Recycling has a
24 composting operation on approximately 190 acres of leasehold property upon
25 which are placed windows of composting materials upon which effluent is placed.
26 The effluent is drawn by Community Recycling, from my personal observation,
27 from the District's adjoining effluent storage ponds.
- 28 7. From my review and familiarity with applicable lease documents, which are

1 referenced and authenticated as public records by the District's Secretary, Tracie
2 White, Community is required to accept, and the District is required to provide,
3 its effluent to Community Recycling which Community then uses in its
4 composting operation. Excess effluent is placed by Community on what I am
5 informed and believe is approximately 80 acres to the southerly portion of the
6 leasehold property and approximately 50 acres to the west of the ponds located on
7 the north side of State Route 223 (also called Bear Mountain Boulevard).

8 8. The District currently charges a \$15.40 per residential equivalency rate to its
9 constituents pursuant to a Prop 218 vote as to which the Prop 218 calculation was
10 prepared by Boyle Engineering (now, AECOM). That Prop 218 vote was
11 personally witnessed by the undersigned with respect to public meetings and
12 participation. The proposed Prop 218 rate increase for sewer was from \$11.70 per
13 residential equivalency, to my understanding and review of documents dating back
14 to the year 2006, and was narrowly approved by the voters within the district.

15 9. The Prop 218 equivalency calculation has been reviewed by the undersigned, the
16 AECOM engineer assigned to this matter (Nick Turner) and interim General
17 Manager Larry Pennel. The Prop 218 of voter approved expenditures allowed for
18 the \$15.40 residential equivalency rate do not include allocation of funds towards
19 construction of infrastructure, purchase of all or securing of alternative disposal
20 site or sites to the present disposal site of Community Recycling on its leasehold
21 property owned by the District.

22 10. I am generally familiar with the District's Title 22 obligations. It is the
23 understanding of the undersigned that those Title 22 requirements imposed upon
24 Lamont Public Utility District for disposal of its effluent under the control and
25 jurisdiction of the State of California Regional Water Quality Control Board
26 strictly limits the manner in which the District's effluent can be disposed.
27 Currently, those restrictions are generally limited to disposal on the property
28 utilized by Community Recycling for its composting operations and adjoining

1 properties farmed by Community Recycling on its leasehold premises for
2 nonhuman consumable crops (corn, alfalfa or silage).

3 11. I am generally familiar with the obligations imposed upon the District with respect
4 to its 1993 California Environmental Quality Act Compliance obtained in 1993
5 for use of Community Recycling and its composting operation as the disposal site
6 for the District's effluent. That environmental review was performed in
7 conjunction with the County of Kern's issuance of the present Conditional Use
8 Permit as what, from my review of the documents dating back to 1992 and 1993
9 indicate, a process and agreement pursuant to which the County of Kern would
10 issue a Conditional use Permit to Community Recycling to allow it to operate a
11 composting facility on the Lamont leasehold property; Lamont would provide its
12 effluent to Community for its composting facilities; and the California State
13 Regional Water Quality Control Board would allow pursuant to Title 22 the
14 application of the District's effluent on Community's leased property for
15 composting purposes.

16 12. Pursuant to its obligations under the lease, since the period of involvement of the
17 undersigned as legal counsel for the District and up to the date of execution of this
18 agreement, Community Recycling has, based upon information received by the
19 undersigned and belief as to accuracy of such information, paid the lease payments
20 required under the lease agreements and amendments to same as imposed by
21 Community Recycling as the lessee of the District's property, and Community
22 Recycling has also accepted and managed the District's effluent.

23 13. When the County served its most recent proposal to modify or revoke Community
24 Recycling's permit in 2011, the undersigned, accompanying the District's interim
25 General Manager, District Director Daniel Portillo, and District Engineer Nick
26 Turner met with Kern County Board of Supervisors Karen Goh and Zack
27 Schrivner and advised the supervisors of the potential catastrophic impact upon
28 the citizens of Lamont should the supervisors at its hearing on November 15, 2011

1 revoke Community Recycling's permit.

2 14. The undersigned also attended, along with the District Engineer and the District's
3 General Manager, Larry Pennel and Director Daniel Portillo the November 15,
4 2011 hearing before the Board of supervisors.

5 15. At the November 15, 2011 hearing, the undersigned specifically requested that the
6 Board of Supervisors withhold revocation of the permit for a period of at least 90
7 days so that the potentially catastrophic impact or revocation of the CUP could be
8 considered by the Board of Supervisors could take place. That request was
9 specifically rejected by the Board of Supervisors. In addressing such issue, the
10 Board of Supervisors, specifically though Supervisor McQuiston, advised the
11 District (and Community Recycling) that he anticipated they would go to court to
12 seek an injunction in response to the County's revocation of the permit. That
13 authorization to go into Court to seek an injunction (Stay) was given to the
14 undersigned as legal counsel for the District (clearly rendering moot the
15 suggestion by the County that Community Recycling and the District did not
16 exhaust their administrative remedies by requesting a Stay from the District Board
17 of supervisors prior to filing the present request for Stay Order from this Court).

18
19 16. A true and correct copy of the transcript of comments by the undersigned to the
20 Board of Supervisors are attached hereto and incorporated herein by reference as
21 Exhibit "A."

22 17. I personally advised the Board of Directors prior to their vote on the proposed
23 modification or, in the alternative, revocation of same, that the District did not
24 have the necessary infrastructure in place for an alternative disposal site for its
25 effluent, and that the cost of replacing Community Recycling as its effluent
26 disposal site would be approximately \$8,000,000.00 to \$10,000,000.00. The
27 District Board of Supervisors was also specifically advised that the engineering
28 calculation provided only 46 days of capacity in the District's ponds before the

1 ponds would overflow in a southwesterly direction onto Highway 223.

2 18. Following the Board of Supervisors' revocation of the Conditional Use Permit, the
3 staff of Lamont Public Utility District and its Board of Directors began
4 undertaking emergency measures to attempt to deal with the average daily flows
5 of approximately 2.1 to 2.8 million gallons per day of effluent into the District's
6 sewage treatment ponds. Emergency expenditures were authorized by the Board
7 of Directors through its President, Jose Cruz, to remediate to reserve ponds
8 located just to the north of Highway 223. That contract was let on an emergency
9 basis and the ponds were remediated, that remediation process being personally
10 observed (in part) by the undersigned in conjunction with further discussions with
11 the District's engineer and staff regarding obtainment of alternative disposal sites
12 for the effluent as an alternative to Community Recycling's use on average of
13 what the undersigned was advised 1.7 million gallons per day of effluent.

14 19. Maps were pulled and reviewed. Historic documents dating back to the early
15 1990's were located and reviewed. Two consultants were hired to assist in trying
16 to find alternative disposal sites. Funds and financing sources were reviewed to
17 accommodate the cost of use of a potential alternative disposal site or sites.
18 Adjoining property owners were contacted, directly and by telephone.

19 20. Despite ongoing efforts (which continue as of the date of execution of this
20 declaration) to find an alternative disposal site, none has been located or secured
21 to replace Community Recycling. Even assuming, arguendo, that such a disposal
22 site could be secured, the District does not have Proposition 218 compliance,
23 based upon the review and analysis of the Prop 218 rate of \$15.40 per month and
24 supporting documentation, to expend towards infrastructure or purchase or
25 funding of an alternative disposal site. H&P Dairy representatives have personally
26 advised the undersigned that they are not in a position to accept the District's
27 effluent. The undersigned was personally present during the meeting with the City
28 of Bakersfield personnel when they indicated that there would be no commitment

1 by the City of Bakersfield to take any of the District's effluent. The review and
2 analysis of the undersigned further confirms the opinion of the undersigned the
3 District does not have CEQA nor Title 22 compliance or authorization to send its
4 effluent anywhere other than to Community Recycling. The review and analysis
5 of the undersigned also continues to confirm the opinion of the undersigned that
6 the District and any alternative property owners who accepts the District's effluent
7 given the present state of the facts and lease provisions exposes both the District
8 and such property owner to claim and suit from Community Recycling. The
9 undersigned has been personally advised by Community Recycling, through its
10 attorneys, that should the District send its effluent to any alternative property
11 owner or otherwise fail to continue to send its effluent to Community Recycling
12 before a resolution and determination by this Court that the County's revocation
13 of the CUP was proper that Community Recycling has and will continue to reserve
14 its rights to seek any and all available legal redress and damages it may have
15 against both the District and any alternative property owner to whom the District's
16 effluent is sent.

- 17 21. Based upon my review and analysis of this matter and information and belief from
18 information received from staff members for the District, the District presently has
19 no alternative disposal site to Community Recycling for its effluent. It is the
20 opinion of the undersigned that if the present Stay Order is not extended by the
21 Court until such time as a final determination by this Court and any appeals
22 therefrom occurs, that revoking the present Stay Order will result in potential
23 catastrophic damage and injury to public health and safety where, as here, the
24 undersigned is informed and believes that there is only 46 days of capacity
25 available in the two existing reserve ponds and, at most, possibly an additional
26 eight days calculated of capacity for the emergency pond pursuant to the June
27 2000 lease amendment to the five acre pond on the south end of the leased
28 property. The undersigned is informed and believes that gravity flows will carry

1 effluent from the ponds adjoining Highway 223 to the north in a southwesterly
2 direction onto adjoining properties and Highway 223.

3 22. It is the opinion of the undersigned that it is not in the public interest to revoke the
4 present Stay Order. It is the opinion of the undersigned that the present Stay
5 Order should appropriately remain in place until there is a final court resolution
6 the dispute between the County of Kern and Community Recycling regarding the
7 revocation of the CUP so that the status quo be maintained in order to avoid
8 catastrophic prejudice to Lamont Public Utility District and its constituents.

9 I declare under penalty of perjury that the foregoing is true and correct and if called as
10 a witness am competent to testify to the foregoing based upon my personal knowledge, except
11 as to matters stated to be based upon information and belief and, as to such matters, I am
12 informed and believe such matters are true and correct.

13 Executed this ____ day of January, 2012, at Bakersfield, California.

14
15 LARRY F. PEAKE
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7 Attorney for Petitioner and Plaintiff and
8 real Party in Interest, Lamont Public Utility District

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF KERN, METROPOLITAN DIVISION

11 COMMUNITY RECYCLING &
12 RESOURCE RECOVERY, INC., a
13 California Corporation and LAMONT
14 PUBLIC UTILITY DISTRICT, a public
15 entity,

14 Petitioners/Plaintiffs,

15 vs.

16 COUNTY OF KERN, a public entity, and
17 DOES 1 through 100, inclusively,

18 Respondents/Defendants.

CASE NO. S-1500-CV-275272-EB

DECLARATION OF TRACIE WHITE
IN SUPPORT OF REPLY TO
OPPOSITION TO STAY OF CUP
REVOCATION

Date: 1/24/12
Time: 8:30 a.m.
Dept. 2

Judge: Honorable Eric Bradshaw

20 I, Tracie White, being duly sworn, depose and say and if called as a witness am competent
21 to testify to the following:

- 22 1. I am an employee of Lamont Public Utility District. I am employed as the Office
23 Manager and am also the District's Secretary for Lamont Public Utility District.
24 I have been employed with the Lamont Public Utility District, either directly or
25 through Eco Resources/Southwest Water, since 2007 and have served in the
26 capacity of District Secretary since 2007. I make this declaration based upon my
27 own personal knowledge except as to matters stated to be under information and
28 belief, and as to such matters I am informed and believe they are true.

1 2. In my capacity as the District Secretary, I serve as the Custodian of Records for
2 the records for Lamont Public Utility District ("District"). My review of historical
3 documents held by the District shows the following information:

4 a. In 1993, Lamont Public Utility District and Community Recycling
5 & Resource Recovery ("Community") entered into a Lease
6 Agreement and Amendment.

7 b. In 1996, a further amendment to the Lease Agreement were
8 executed.

9 c. In June of 2000, an amendment to the lease was also executed.

10 True and fair copies of those lease documents to the extent they have been located
11 by the undersigned are attached hereto collectively as Exhibit "A".

12 3. I am personally aware as the District Secretary and as Office Manager for the
13 District of the Kern County hearing of November 15, 2011 to modify or revoke
14 the conditional use permit of Community Recycling. I am informed and believe
15 that Community Recycling accepts approximately 1.7 gallons per day of effluent
16 from the District.

17 4. I have been personally involved in attempting to find an alternative disposal site
18 since the November 15, 2011 revocation by the Kern County Board of Supervisors
19 of Community Recycling's conditional use permit. As of the date of execution of
20 this agreement, even looking to a three mile radius from the District's ponds, no
21 alternative disposal site has been found for the District's effluent. H & P Dairy
22 initially indicated through Dave Haagsma to me when I personally spoke with Mr.
23 Haagsma that the dairy might be able to take 340,000 gallons per day of the 1.7
24 million gallons of effluent. However, subsequent communication has been
25 received by me from the dairy advising that the dairy is not agreeable to taking any
26 of the District's effluent.

27 5. I have been personally involved in reviewing maps and use of properties adjoining
28 and nearby the District's ponds in an attempt to locate an acceptable, useable

1 alternative disposal site for the District's effluent (other than Community
2 Recycling). I have worked with the District's engineer, Nick Turner of AECOM
3 and the District's interim manager, Larry Pennell on an ongoing basis to attempt
4 to find an alternative disposal site for the district's effluent which Community
5 Recycling accepts. No alternative site has been found, even though the search has
6 been extended to three miles from the District's sewage treatment plant.

7 6. The sewage treatment plant consists of twelve ponds. As a manager for the
8 District, I have personally driven throughout the area adjoining and surrounding
9 the pond looking for possible alternative places where the District's effluent could
10 be placed if Community Recycling's permit were to be pulled. I have not found
11 any place where the effluent could feasibly be sent, and I am not aware of any
12 infrastructure (sewer lines or other facilities) which would accommodate the
13 placement of 1.7 million gallons of effluent to an alternative source.

14 7. The District presently has two ponds left available to hold additional effluent on
15 a reserve basis. Those ponds are located on the north side of Bear Mountain
16 Boulevard. I am familiar with the gravity flows in the general area of the District's
17 sewer ponds. Those gravity flows are generally to the south and the capacity of the
18 two reserve ponds, I am informed and believe from information received from our
19 District engineer, is approximately 23 days per pond.

20 8. When the Kern County Board of Supervisors revoked Community Recycling's
21 permit on November 15, 2011, the District's available ponds reached what is
22 called "free board". "Free Board" is the top two feet of the sewage treatment
23 ponds. The District is not allowed by Regional Water Quality Control Board to
24 allow its effluent to go into that last two feet at the top of the ponds.

25 9. I was personally involved with the District Board of Directors, on an emergency
26 basis, awarding a contract for the remediation of the two reserve ponds to accept
27 effluent when the County of Kern Board of Supervisors revoked Community
28 Recycling's conditional use permit. Our ponds had reached free board and we

were just to the point of initiating the use of the first of the two remediated reserve ponds when the Court issued its Stay Order.

10. When the Stay Order was issued, Community Recycling began taking our effluent again. Otherwise, I am informed and believe that otherwise the two reserve ponds would have filled and ultimately after what I am informed and believe would be a 46 day period would have then overflowed onto adjoining properties and roadways.

11. Should the Court not continue its present Stay Order after January 24, 2012, the District will again be required to begin using its two reserve ponds if Community Recycling is prohibited from taking the District's effluent and I am informed and believe that those ponds would then overflow onto adjoining properties and roadways, creating a serious health and safety risk to the citizens residing in Lamont and driving through the areas adjoining the District's ponds.

12. I am personally generally familiar with Title 22 and limitations upon the District and where it can place its effluent. The District is required to place its effluent pursuant to existing lease terms and requirements to Community Recycling, and the District's effluent is not to be allowed to flow onto adjoining properties. Those adjoining properties include farmland which are producing crops consumable by humans (as opposed to silage for animal feed). If the Stay Order is not allowed to remain in place, the District's ponds will overflow and some of the adjoining farmlands at risk for the overflow include farmlands growing crops for human consumption, which is an additional potential health & safety risk.

I declare under penalty of perjury that the foregoing is true and correct and if called as a witness am competent to testify to the foregoing except as to matters stated to be under information and belief and, as to such matters, I am informed and believe such matters are true and correct.

Executed this ____ day of January, 2012, at Lamont, California.

TRACIE WHITE

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7 Attorney for Petitioner and Plaintiff and
8 real Party in Interest, Lamont Public Utility District

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF KERN, METROPOLITAN DIVISION**

11 COMMUNITY RECYCLING &
12 RESOURCE RECOVERY, INC., a
13 California Corporation and LAMONT
14 PUBLIC UTILITY DISTRICT, a public
15 entity,

14 Petitioners/Plaintiffs,

15 vs.

16 COUNTY OF KERN, a public entity, and
17 DOES 1 through 100, inclusively,

18 Respondents/Defendants.

CASE NO. S-1500-CV-275272-EB

DECLARATION OF LARRY PENNELL
IN SUPPORT OF REPLY TO
OPPOSITION TO STAY OF CUP
REVOCATION

Date: 1/24/12
Time: 8:30 a.m.
Dept. 2

Judge: Honorable Eric Bradshaw

20 I, Larry Pennell, being duly sworn, depose and say and if called as a witness am
21 competent to testify to the following:

- 22 1. I am the interim General Manager for Lamont Public Utility District, a public
23 utility district which I am informed and believe and from my services as interim
24 General Manager confirms a duly incorporated public utility district within the
25 state of California with its defined jurisdictional area being in the unincorporated
26 area of the County of Kern generally referenced as the town of Lamont.
27 2. As a public utility district, Lamont Public Utility District provides multiple areas
28 of service to its constituents and rate payers with the area of Lamont.

- 1 3. Those services include, among others, providing a sewer system and water system.
- 2 4. The sewer system is composed of, among other aspects, a system of sewer lines
- 3 which transport sewage waste to two treatment "finishing" ponds located on the
- 4 northside of Bear Mountain Blvd. (Hwy. 223) four holding ponds located by the
- 5 finishing ponds (also north of Hwy. 223), and six holding ponds located to the
- 6 south of Hwy. 223.
- 7 5. The ponds are authorized to hold a capacity of up to 3.25 million gallons per day
- 8 of effluent.
- 9 6. I am informed and believe that the average daily quantities of effluent range from
- 10 approximately 2.1 to 2.8 million gallons per day.
- 11 7. Of such amount, I am informed and believe that Community Recycling and
- 12 Resource Recovery, Inc. ("Community") takes approximately 1.7 million gallons
- 13 per day pursuant to two lease agreements and amendments to those lease
- 14 agreements dating back to 1993 and 1996 for Community's composting operation
- 15 and a June, 2000 amendment.
- 16 8. Pursuant to the lease agreements, Community is obligated to accept the Lamont
- 17 Public Utility District's ("District") effluent, and the District is obligated to send
- 18 its effluent to Community Recycling.
- 19 9. Lamont Public Utility District leases approximately 400 acres of property to
- 20 Community.
- 21 10. Of that amount, approximately 190 acres is utilized by Community for its
- 22 composting windrows and associated activities.
- 23 11. 160 acres of located immediately adjoining the 190 acres to the east, is utilized by
- 24 Community for its office building, trucking and related equipment, truck washing
- 25 facility and some acreage on the south is utilized by Community for growing crops
- 26 upon which effluent can be placed (approximately 80 acres).

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- 1 12. Community also uses approximately 50 acres immediately to the west of the
2 District's treatment ponds, that area being approximately 50 acres upon which
3 there is presently corn being grown by Community.
- 4 13. Community pays the District an annual lease payment for the use of its land, but
5 the primary benefit that Community provides to the District and the people of
6 Lamont is the acceptance of the substantial bulk of the effluent from the District
7 (approximately 1.7 million gallons per day) which the District would otherwise
8 have to do treat and dispose of through alternative means.
- 9 14. In November of 2011 I became informed as the interim General Manager for the
10 District of a proposed modification or, in the alternative, revocation of
11 Community's conditional use permit ("CUP") which allows Community
12 Recycling to operate its composting operation on the District's leasehold property.
- 13 15. Because of the necessity that Community Recycling be allowed to continue
14 operations to take the District's effluent, I personally met with Supervisor Karen
15 Goh and Supervisor Jack Scribner prior to the scheduled November 15, 2011
16 hearing on the proposed modification/revocation of the CUP.
- 17 16. I had District Board Member Daniel Portillo, District Engineer Nick Turner, and
18 District Attorney Larry Peake with me at those meetings.
- 19 17. At both meetings, it was emphasized and explained to the supervisor that the
20 District had no alternative to Community Recycling to replace the approximately
21 1.7 million gallons of effluent being sent to Community on a daily basis.
- 22 18. It was also explained to such supervisors that, at a minimum, the time necessary
23 after any alternative disposal site was found to accomplish the transfer of the
24 effluent going from Community to a new disposal site would be one year after
25 securing such alternative location, due to imposition of multiple regulatory
26 requirements, including through Title 22 regulations for the state of California
27 which govern the disposal of effluent, including under the jurisdiction and control
28 of the State of California Regional Water Quality Control Board and compliance

requirements with California Environmental Quality Act (CEQA).

19. In addition, the supervisor was advised that minimum estimated costs for the securing of such alternative site for disposal of effluent would be in the range of \$8 Million to \$10 Million, based upon research on current prices of agricultural land in the Lamont vicinity of between \$10,000.00 per acre and \$15,000.00 per acre, with a minimum estimate of the amount of land necessary for use as an alternative disposal site being 640 acres, with some estimates extending to an excess of 1000 acres, depending upon type of crop, soil conditions and other criteria.

20. It was explained to the supervisor that the District does not have funds available to finance such alternative disposal site, nor for the cost of transporting the effluent through necessary infrastructure (pipelines, lift stations as may be required, and associated equipment, which I am informed and believe is generally approximately \$1 Million per mile of sewer line cost).

21. The District is required to comply with California Public Contract Code bidding requirements and must pay prevailing wage for the construction of infrastructure to transport its effluent and for any holding ponds or other developmental cost for an alternative disposal site for its effluent.

22. The District is also constrained by Proposition 218, "Right to Vote on Taxes Act," adding Articles XIII C and XIII D to the California Constitution on November 5, 1996.

23. Pursuant to my background in municipal and governmental agency management and my familiarity with Proposition 218, I have personally reviewed Proposition 218 documentation supporting the residential equivalency rate for Lamont's constituents of \$15.40 per unit.

24. I am informed and believe that a Prop. 218 vote was performed and that the vote by the Lamont District's constituents to approve the \$15.40 per month sewer rate did not include any provision for the allocation of sewer funds for construction of

- 1 pipelines or infrastructure for an alternative disposal site for sewer effluent.
- 2 25. The sewer user rates defined needed projects were a 2006 waste water treatment
- 3 plant pipe and storage project at a cost of \$4,200,000.00 and a 2007 allocation for
- 4 ongoing maintenance, specifically referencing the Campbell Project, at
- 5 \$100,000.00 for project costs of \$4.3 Million.
- 6 26. Thus, the Lamont Public Utility District does not have the funds available through
- 7 Proposition 218 compliance to pay for the financing of purchase of land, costs of
- 8 installation of infrastructure (pipelines, etc. lift stations, or such other
- 9 infrastructure as may be required) for an alternative disposal site to Community
- 10 Recycling.
- 11 27. I have been directly involved with and directed staff to nonetheless look for
- 12 potential, alternative disposal sites for the effluent which is currently being
- 13 transported to Community and accepted by Community for its composting
- 14 operation (and use by Community on the two above acreage sites for "overflow"
- 15 purpose by Community when its composting operation does not require utilization
- 16 of the entirety of the amount of effluent being transported from the District's
- 17 ponds to Community's leasehold property).
- 18 28. Staff members, as well as with my personal participation, have increased its search
- 19 for possible alternative disposal sites to a three mile radius.
- 20 29. I have also recommended to the Board of Directors retention of two consultants
- 21 to assist in the search for alternative disposal sites should, hypothetically the
- 22 multiple levels of regulatory and legal compliance and financing obtained to
- 23 secure an alternative site for the District's effluent.
- 24 30. As of the present date of execution of this declaration, neither I nor have I been
- 25 informed by any member of our District staff nor consultants that any alternative
- 26 disposal site has been secured.

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- 1 31. It would again be noted that even if an alternative disposal site were to be secured
2 through execution of land purchase agreement, lease agreement or other means of
3 securing an alternative disposal site, this District does not have funds pursuant to
4 Proposition 218 to expend towards such alternative site.
- 5 32. To secure such funds, a significant rate increase, potentially doubling or tripling
6 the current sewer rate, would need to be proposed to the constituents/rate holders
7 for Lamont and the rate holders would have to vote to approve such rate increase.
- 8 33. It should be noted that even if such a rate increase were hypothetically approved
9 by the District's rate holders that the funds would not become immediately
10 available to finance the securing of an alternative disposal site; those funds would
11 have to be secured through some alternative financing means to obtain immediate
12 financing such as issuance of a bond, obtainment of a grant, or other means of
13 financing.
- 14 34. I am informed and believe that the time necessary to obtain regulatory, legal and
15 financing criteria to obtain an alternative disposal site, all of which would be
16 subject to California Regional Water Quality Control Board supervision and
17 approval, is, at a minimum, one year from the date of securing of such alternative
18 disposal site.
- 19 35. I was personally present at the November 15, 2011 hearing on the proposed
20 modification or, in the alternative, revocation of Community's conditional use
21 permit which allows Community to accept the District's effluent.
- 22 36. I was personally present and gave testimony when it was explained to the Board
23 of Supervisors that the Lamont Public Utility District had no alternative site for
24 disposal of its effluent other than Community Recycling, and that any alternative
25 disposal site would cost between \$8 Million and \$10 Million (which the District
26 does not have for use towards an alternative effluent disposal site).

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1 37. I am aware that the County of Kern is suggesting that the District has three
2 potential alternative disposal sites for its effluent: the City of Bakersfield's Waste
3 Water Treatment Field, H & P Dairy (Haagsma & Pinheiro Dairy), and percolating
4 ponds. None of the suggested alternatives are, in fact, physically, legally, or
5 fiscally available to the District. I was personally present at the joint meeting with
6 the City of Bakersfield Personnel, including City Manager Alan Tandy and City
7 staff as well as County of Kern personnel, attorneys, and Supervisor Goh when the
8 possibility of a temporary use of City crop land for effluent disposal use by the
9 District was discussed. I was personally present when the City's representative,
10 Mr. Rojas, expressed that under no circumstances would the City in Bakersfield
11 accept the District's effluent with the potential that the City's Title 22 compliance
12 would be prejudiced with the City's representative playing out that the District's
13 water testing level for its EC at 1100 was outside as it was in excess of the City
14 of Bakersfield's compliance level under its Title 22 order of 750. City Manager
15 Alan Tandy confirmed to the undersigned that the City was not in a position to
16 accept the District's effluent. It was also pointed out that any use by the District
17 of the City's land would be temporary, with an estimate of 3 years being provided.
18 I am informed and believed that the cost to the District to run the necessary lines
19 and infrastructure to transport its effluent currently being sent to Community
20 Recycling to the City's farm land to the City of Bakersfield's junction box would
21 be approximately \$4 million, and that the estimated time for construction of such
22 infrastructure would be a minimum of one year. In addition, I am generally
23 familiar with the District's Title 22 guidelines and those do not allow for the
24 transport and disposal of the District's effluent on City of Bakersfield property,
25 nor does the District have California Environmental Quality Act compliance to
26 allow the District to transport of its effluent on the City of Bakersfield's farm land,
27 which has its junction box located approximately four miles from the District's
28 sewage treatment plant. In addition, percolating ponds are also not feasible for the

1 same general reasons: there is no Title 22 allowability for the District presently to
2 dispose of its effluent in percolating ponds, nor is there CEQA compliance for the
3 District to do so, nor does the District have Proposition 218 funding allowibility
4 to expend monies toward construction of percolating ponds (or the purchase of
5 lands for the construction of such ponds). I am also familiar with the most recent
6 communication from H & P (Haagsma & Pinheiro Dairy) that they are not willing
7 to accept any effluent from the District in any amount, or for any period of time.

8 38. I have also looked into the potential of alternative sources of treatment of effluent,
9 including construction of a treatment plant facility. Those costs are potentially in
10 excess of \$12 million according to information I received.

11 39. It was also explained to the Directors that any action by the Board of Supervisors
12 to revoke the CUP held by Community Recycling would have catastrophic effects
13 on the District, since the District's storage capacity was limited to two reserve
14 ponds located just to the north of Bear Mountain Blvd. (Hwy. 223) and that our
15 engineer's estimate of such capacity was limited to 46 days (23 days for each of
16 two ponds) before the ponds would then overflow and gravity flow onto
17 Hwy. 223.

18 40. I was also personally present when, after being provided such information, the
19 Board of Supervisors nonetheless voted to revoke Community Recycling's permit.

20 41. Following the revocation of the permit, I was personally aware that the County of
21 Kern provided Community Recycling with only a 30 day period to shut down its
22 operations and remove all of its equipment from its leasehold with Lamont Public
23 Utility District.

24 42. During the initial portion of that 30 day period, Lamont's Board of Directors
25 issued an emergency contract to remediate and ready the two reserve ponds to
26 accept effluent.

27 ///

28 ///

1 43. The Board of Directors also instructed our legal counsel to forthwith seek judicial
2 relief from the court in conjunction with Community Recycling to obtain a stay
3 of any revocation order by the County of Kern due to the anticipated significant
4 adverse impact on public health and safety that would result if the District were
5 not allowed to continue to send its effluent to Community Recycling.

6 44. Those conditions have not changed as of the date of execution of this declaration.

7 45. Should the stay not be extended past the present hearing date of January 24, 2012,
8 so as to allow the District to continue to send its effluent to Community Recycling
9 then the two reserve ponds will immediately begin to fill and our engineer has not
10 revised his initial estimate of the capacity of those two reserve ponds from the
11 original 46 day estimate.

12 46. It has been noted through research of lease documents that the District has access
13 to a small emergency pond to the south of the Community Recycling leasehold
14 property.

15 47. I am informed and believe that such pond could potentially, if empty, hold an
16 additional approximately eight days of capacity of effluent, but I am also informed
17 and believe that the pond is not empty and that the additional period of capacity
18 may be as little as two additional days beyond the original 46 day estimate.

19 48. I make this declaration based upon my knowledge and experience in my capacity
20 as the interim General Manager for the Lamont Public Utility District and my
21 more than 30 years of experience in management of governmental agencies,
22 including municipalities, and special districts and my personal familiarity with the
23 facts and circumstances surrounding the present issue and the Lamont Public
24 Utility District's operations, including financial status.

25 49. I am competent to testify to the foregoing based upon such personal knowledge
26 except as to matters stated to be based upon information and belief, and as to such
27 matters I am informed and believe that they are true and correct.

28 ///

1 I declare under penalty of perjury that the foregoing is true and correct and if called as
2 a witness am competent to testify to the foregoing based upon my personal knowledge, except
3 as to matters stated to be based upon information and belief and, as to such matters, I am
4 informed and believe such matters are true and correct.

5 Executed this ____ day of January, 2012, at Bakersfield, California.

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LARRY PENNELL

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1 Larry F. Peake, Esq.
2 A Professional Law Corporation
3 WALL, WALL & PEAKE
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6 Larry F. Peake, SBN 082626
7 Attorney for Petitioner and Plaintiff and
8 real Party in Interest, Lamont Public Utility District

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF KERN, METROPOLITAN DIVISION

11 COMMUNITY RECYCLING &
12 RESOURCE RECOVERY, INC., a
13 California Corporation and LAMONT
14 PUBLIC UTILITY DISTRICT, a public
15 entity,

14 Petitioners/Plaintiffs,

15 vs.

16 COUNTY OF KERN, a public entity, and
17 DOES 1 through 100, inclusively,

18 Respondents/Defendants.

CASE NO. S-1500-CV-275272-EB

DECLARATION OF NICK TURNER IN
SUPPORT OF LAMONT PUBLIC
UTILITY DISTRICT'S REPLY BRIEF
TO KERN COUNTY'S OPPOSITION
TO STAY OF ORDER REVOKING
CONDITIONAL USE PERMIT

Date: 1/24/12
Time: 8:30 a.m.
Dept. 2

Judge: Honorable Eric Bradshaw

21 I, Nick Turner, being duly sworn, depose and say and if called as a witness am competent
22 to testify to the following based upon my own personal knowledge, except as to matters stated
23 to be under information and belief and, as to such matters, I am informed and believe such
24 matters to be true and correct:

- 25 1. I am the engineer with AECOM primarily assigned to representation of Lamont
26 Public Utility District.
27 2. I make this declaration in support of Lamont Public Utility District's reply brief
28

1 to the County of Kern's opposition to stay of order revoking Community
2 Recycling and Resource Recovery, Inc. ("Community") conditional use permit.

3 3. Lamont Public Utility District provides water and sewer services for defined
4 constituents in a specified geographical area in and about the area of the town of
5 Lamont.

6 4. Those sewer services are provided pursuant to Proposition 218 sewer rate of
7 \$15.40 per single family residential equivalency.

8 5. That calculation of the sewer rate was performed by AECOM (through its
9 predecessor entity Boyle Engineering Corp.).

10 6. I have personally reviewed the Proposition 218 compliance documents utilized to
11 calculate the sewer rate of \$15.40 per month.

12 7. Those sewer rates were predicated upon defined project costs consisting of a
13 wastewater treatment plant pipe and storage project at \$4.2 Million and ongoing
14 operating and maintenance including a sewer line replacement program (unrelated
15 to the issues involved in Community Recycling's conditional use permit) at a cost
16 of \$100,000.00.

17 8. The wastewater treatment plant and storage project was an expansion of the
18 District's existing wastewater treatment plant storage ponds.

19 9. The Proposition 218 voter approved rate did not include a component for
20 construction of infrastructure or purchase or development of alternative property
21 to the District's current site of disposal of approximately 1.7 to 2.2 million gallons
22 per day of its effluent to Community Recycling at its composting facility located
23 to the south of Hwy. 223 (Bear Mountain Blvd.)

24 10. I was personally involved with and present during communication to members of
25 the Board of Supervisors prior to its November 15, 2011 hearing revoking the
26 conditional use permit held by Community Recycling which allowed Community
27 Recycling to accept the District's effluent for use in its composting operation.

28 ///

- 1 11. I was personally present and involved in the delineation to two supervisors prior
2 to the November 15, 2011 hearing that health and safety may be adversely affected
3 for the citizens of Lamont should the conditional use permit be revoked.
- 4 12. I was also present at the November 15, 2011 hearing before the Kern County
5 Board of Supervisors when Lamont Public Utility District, through its
6 representatives' presentation, reiterated the catastrophic consequences that would
7 occur should Community Recycling's CUP be revoked, since the District had no
8 alternative site for disposal of the 1.7 to 2.2 million gallons per day (average)
9 estimated as utilized by Community Recycling.
- 10 13. Those consequences included, after expiration of 46 days of capacity in the two
11 reserve storage ponds located just to the north of Hwy. 223, those ponds
12 overflowing onto Hwy. 223 and adjoining properties.
- 13 14. I have recently been informed that there is a lease amendment which provides
14 potential access by Lamont Public Utility District to a small emergency pond
15 located to the south of Community Recycling's leasehold area.
- 16 15. That is described in the June 2000 lease amendment.
- 17 16. I have calculated the approximate amount of storage capacity available to the
18 District if the pond were empty.
- 19 17. That capacity is approximately five days, in my opinion.
- 20 18. I am informed and believe, however, that the pond is not empty, but is partially
21 filled, so as to lessen to the amount of potential capacity to potentially as low as
22 two additional days for the District should the present Stay Order not be extended.
- 23 19. I have been personally involved, along with other staff for Lamont Public Utility
24 District, in attempting to find an alternative site for the District's effluent should
25 the Stay Order not be extended.
- 26 20. No alternative disposal site has been found.
- 27 21. The search parameters have been extended to three miles from the District's
28 wastewater treatment plant for such purpose.

- 1 22. I am informed and believe and based upon my personal knowledge from my
2 review of the Proposition 218 rate calculation, that the District does not have
3 funds which are subject to use for financing of infrastructure to transfer effluent
4 to an alternative site.
- 5 23. While costs potentially vary, the District is subject to the requirement to pay
6 prevailing wage under the public contract code, and the estimated cost, in my
7 opinion, to transport the District's effluent to an alternative disposal site would be
8 approximately \$1,000,000 per mile to excavate, install sewer line, and re-compact
9 to applicable CalTrans or other standards, depending upon which roadways and
10 site location might be secured and install pumping facilities if required depending
11 on the location of the disposal site.
- 12 24. As stated, however, I have personally not found and I am not aware of any
13 alternative disposal site which has been secured.
- 14 25. As stated, even assuming such site were located and secured, the District does not
15 have available funding through its current sewer rate to pay such costs.
- 16 26. I am personally familiar with Title 22 and its requirements as are generally to be
17 applied to Lamont Public Utility District.
- 18 27. Title 22 is a state of California regulatory scheme which controls the disposal of
19 the District's effluent.
- 20 28. The State of California Regional Water Quality Control Board controls the
21 application of Title 22.
- 22 29. I have personally been involved with and am currently involved with the Title 22
23 requirements and documentation regarding same for Lamont Public Utility
24 District.
- 25 30. The District cannot transfer its effluent from Community Recycling without the
26 approval of the State of California Regional Water Quality Control Board.
- 27 31. Any transfer to an alternative disposal site for the District's effluent would require
28 the submittal of a joint proposed program by Community Recycling and the

District to the Regional Water Quality Control Board.

32. The Control Board would then have to review and approve the proposal.

33. Considerations which must be considered in any alternative effluent disposal site by the District, assuming the District had the funding legally available, include, among others, Title 22 compliance; California Environmental Quality Act (CEQA) compliance; considerations of the soil content and its availability to accept effluent; effluent water quality.

34. Consideration must be given to the amount of acreage available.

35. At a minimum, the necessary available acreage calculated at 640 acres, and, depending upon soil testing, water testing and crop availability and crop rotation, that amount of necessary acreage for the District's use for effluent disposal may exceed 1000 acres.

36. The water must be managed: that is, property to which the effluent is placed must be able to accept the water on a daily basis, without fail, to prevent the District's effluent from flowing onto adjoining streets and properties, including any agricultural land which is growing crops for intended use for human consumption (which is a violation of Title 22).

37. The land should appropriately "gravity flow:" e.g., be downslope from the District's wastewater treatment plant with the necessity and installation of a lift station (approximate cost of \$200,000.00) and need to operate any lift station or stations on a 24 hour, 7 day a week basis with significant incurrence of electrical costs.

38. I was personally present and previously estimated to two County supervisors that the period of time necessary following any location of an alternative disposal site for the District to get its effluent to such alternate disposal site should Community's CUP be revoked would be approximately one year.

39. Additional review and analysis since that time does not cause me to change that opinion.

- 1 40. At a minimum, in my opinion, from the date of location of an acceptable
2 alternative disposal site for the District's effluent which meets all regulatory, legal
3 and physical and related requirements, a time period of at least one year would be
4 required to get the District's effluent to such alternative disposal site.
- 5 41. I am aware that an alternative estimate of five years or more for the period of time
6 necessary for Community Recycling to shut down its operations in conjunction
7 with the transfer of the District's effluent to an alternative disposal site has been
8 suggested.
- 9 42. I am aware that the County of Kern is suggesting that the District has available to
10 it alternative sites for disposal of its effluent.
- 11 43. Based upon my personal involvement in this matter (since prior to
12 November 15, 2011) and my personal research and involvement in attempting to
13 find an alternative disposal site, no alternative disposal site exists for the District's
14 effluent to replace Community Recycling.
- 15 44. I am aware that the County of Kern is suggesting that the District could utilize _
16 percolating ponds as an alternative to the disposal of 1.7 million gallons per day
17 of effluent on the leasehold interest held by Community Recycling for composting
18 purposes.
- 19 45. Percolating ponds are not feasible to the District for multiple reasons.
- 20 46. First, the District does not have funding available through Proposition 218
21 towards the purchase of land/or development of percolating ponds.
- 22 47. Further, the use of percolating pond is not within the scope of the District's
23 allowable Title 22 uses for disposal of its effluent.
- 24 48. I am informed and believe that with respect to the suggestion by the County of
25 Kern that the City of Bakersfield accept Lamont's effluent that the following is
26 true: the City of Bakersfield's junction box to which the effluent would have to
27 be piped through sewer lines that would need to be located on public roadways
28 through use of lift stations, since it would not gravity flow, as it is approximately

four miles from the District's wastewater treatment plant.

49. I am also informed that the City's Title 22 order limits the EC level for the City's effluent to 750 umhos/cm.

50. I also know of my own personal knowledge that the EC level of the District's effluent is currently approximately 1100 umhos/cm.

51. I would estimate that the cost for the transport of the District's effluent to the City's junction box - - which I am informed would be on a temporary basis of approximately three years - - would be approximately \$4 Million, which the District does not have pursuant to its Proposition 218 voter approved rate limitations.

52. I am also informed that the County of Kern is suggesting that T&R Fry Family Trust has 640 acres of land available for the District's effluent. That land is not available. The land is currently utilized for grape production, which is not compliant with Title 22 based upon my information and knowledge with the Regional Water Quality Board.

53. Further, the District does not have infrastructure (pipeline and associated infrastructure) of which I am aware which would allow the District's effluent to be sent to the Fry Family Trust property of 640 acres (which is located to the south of the Community Recycling leasehold property owned by the District).

54. I make this declaration as a licensed engineer employed with AECOM, the contracted engineering firm for the District of Lamont which, through AECOM and its predecessor, Boyle Engineering, has provided continuous engineering services to the Lamont Public Utility District since 1995 (according to information available with AECOM) and upon my personal familiarity as the acting, signed engineer for Lamont Public Utility District and my familiarity with Community recycling & Resources Recovery, this District's sewer treatment plant and effluent disposal system, and actions of the County of Kern relating to proposed modification and ultimate revocation of Community Recycling's CUP relating to

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property owned by the District and leased by Community Recycling.

I declare under penalty of perjury that the forgoing is true and correct and if called as a witness am competent to testify to the foregoing based upon my personal knowledge, except as to matters stated to be based upon information and belief and, as to such matters, I am informed and believe such matters are true and correct.

Executed this 19th day of January, 2012, at Bakersfield, California.

NICK TURNER

Water/Nitrogen Balance
Lamont WWTP
Feb-12

Parameter	Value
Average Daily Flow, MGD	2.00
Irrigation Efficiency, %	75%
Treatment Ponds Area, Acres	30.4
Effluent Storage (North of Bear Mtn), Acres	25.3
Effluent Storage (South of Bear Mtn), Acres	35.8
Recycling Center Demand, MGD	0
Effluent Reclamation Area	425
Alfalfa, Acres	0.0
Pasture, Acres	0.0
Cotton, Acres	0
Corn, Acres	0
Grapes, Acres	0
Wheat, Acres	0
Nitrogen Concentration in Effluent, mg/l	15
Denitrification in Soils, %	0.0
Percolation Rate, inch/day	0.00

Typical surface systems irrigation efficiencies are between 65-85 % efficiency. (Existing aerated lagoons plus first two treatment ponds)
 326.37 Acre-Ft ponds at 12 foot deep-pond
 (260.00 Acre-Ft ponds at 7.3 foot deep-unlined)
 35.80 Total Unlined Acres
 61.10 Total Storage

Percentage of Effluent Reclaimed	Percentage of Nitrogen Reclaimed
100.00%	100.00%

Total Acres= 425

Month	1903			33.8	4.8	161.3	0.0	161.3	195.0	0.0	0.0	0.0	0.0	(34.7)	0.0	4.00	7.63	100%
October	2,00	184.1	0.0	17.6	10.0	176.5	0.0	176.5	80.8	0.0	0.0	0.0	0.0	95.7	0.0	1.85	3.86	100%
November	2,00	190.3	0.0	13.0	12.3	188.5	0.0	188.5	46.3	0.0	0.0	0.0	0.0	143.3	0.0	0.94	2.85	100%
December	2,00	190.3	0.0	13.0	16.4	193.7	0.0	193.7	30.8	0.0	0.0	0.0	0.0	162.8	0.0	0.83	2.85	100%
January	2,00	171.9	0.0	10.8	17.7	170.7	0.0	170.7	58.7	0.0	0.0	0.0	0.0	112.0	0.0	1.20	4.12	100%
February	2,00	190.3	0.0	31.2	19.7	178.8	0.0	178.8	107.0	0.0	0.0	0.0	0.0	71.8	0.0	2.18	6.29	100%
March	2,00	184.1	0.0	42.6	11.1	152.5	0.0	152.5	196.4	0.0	0.0	0.0	0.0	(43.9)	0.0	541.7	8.53	100%
April	2,00	184.1	0.0	57.2	3.5	136.5	0.0	136.5	293.1	0.0	0.0	0.0	0.0	(156.5)	0.0	5.93	11.40	100%
May	2,00	190.3	0.0	85.4	1.3	120.0	0.0	120.0	346.2	0.0	0.0	0.0	0.0	(228.2)	0.0	7.06	13.47	100%
June	2,00	184.1	0.0	72.8	0.2	117.7	0.0	117.7	397.5	0.0	0.0	0.0	0.0	(278.9)	0.0	8.11	15.47	100%
July	2,00	190.3	0.0	65.0	0.8	126.1	0.0	126.1	377.0	0.0	0.0	0.0	0.0	(250.9)	0.0	7.69	14.66	100%
August	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
September	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
October	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
November	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
December	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
January	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
February	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
March	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
April	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
May	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
June	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
July	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100%
August	2,00	184.1	0.0	47.8	1.9	138.3	0.0	138.3	279.9	0.0	0.0	0.0	0.0	(141.7)	0.0	5.71	10.89	100

Irrigation requirements equal evapotranspiration minus effective precipitation at a given month. It is calculated as follows: $(ET - K_p) \times 0.7$ Eff precipitation.

² Precipitation corresponds to the water contribution by rainfall over the areas covered by the treatment area and storage ponds by an 100-yr annual return period.

³ Percolation assumes a rate of 0.00 inches per day (all ponds lined).

*Monthly excess (deficit) of water equals to the sum of sewage flow and precipitation less the water loss through evaporation, percolation and reclamation irrigation.

³ Nitrogen Balances assumes the recommended nitrogen utilization rates in the Western Fertilizer Handbook. These are 480 lb/acre/year for Pasture, 180 lb/acre/year Cotton, 250 lb/acre/year for Corn silage, 125 lb/acre/year for grapes, and 175 lb/acre/year for Wheat silage.

Σ Irrigation =	2409.8	Acre-Ft
Evaporation + Percolation + Irrigation =	2,898.2	Acre-Ft
Existing Storage =	586.4	Acre-Ft
Additional Required Storage =	0	Acre-Ft
	0.0	Acre-@

Linear Carbon.

Technical Memorandum

Date: March 1, 2012

To: Lonnie Wass

From: Nick Turner, P.E., District Engineer



Subject: District Efforts to Pursue Alternative Effluent Disposal Capacity & Contingency Plan

Distribution: Larry Peake

As requested by the California Regional Water Quality Control Board (RWQCB) in their February 6, 2012 letter, the Lamont Public Utility District (District) has been tasked with documenting (1) the District's efforts to obtain interim and/or long term disposal capacity beyond that provided by the composting facility and (2) document the District's contingency plan to develop reliable long-term disposal capacity.

The District has recently been made aware that the reliability of the composting facility as the sole disposal method for the District's wastewater has come into question by the RWQCB as a result of the ongoing litigation between the County of Kern and Community Recycling and Resources Recovery (CR&RR). This raises concerns on the part of the RWQCB as to what would happen if the composting operation was closed or went out of business. As a result of the County's actions on November 15, 2011, the District has worked endlessly to find an alternative use for its effluent.

District Efforts to Pursue Alternative Effluent Disposal Capacity

Background

The District currently owns 640 acres, of which 135 acres is used for the District's WWTP including storage ponds, 150 acres is used by CR&RR for the composting operation, 130 acre is farmed with alfalfa by CR&RR, and the remaining 225 acres is not currently being utilized. Of this remaining 225 acres, 160 acres (APN 185-350-55) has claimed to have high pH (± 12) soil and also would require significant grading and soil conditioning to achieve something that is farmable. The cost to improve this land is estimated in the millions. The remaining 65 acres is spread around the 640 acres in four different locations which makes it difficult to utilize for disposal.

Beginning in 1993, the composting facility (CR&RR) has been responsible for the disposal of all the District's effluent. Past estimates of average daily flow (ADF) have ranged from 1.2 to 2.2 MGD. A recent recalibration of the District WWTP influent flow meter has established an ADF of 1.4 MGD. The composting facility is permitted, via the District's Waste Discharge Requirements (WDR) Order No. 98-043, to use the effluent in both the composting operation and in the farming of the District's ± 130 acres

of fodder, fiber and feed crops. To date, CR&RR has not had any problems disposing of all the District's effluent in accordance with the current WDR.

The District has contracted with, Dominic Patino, a licensed agronomist (CCA#34807), to assist in the search for viable farm land to dispose of the District's effluent. The District has been informed by Mr. Patino that based on an ADF of 2.0 MG and considering many variables such as weather, and soil characteristics, he estimates that the District would require as much as 400 to 600 acres of viable farmland to dispose of the District's effluent. Based on the available effluent quality data provided by the District, Mr. Patino has commented that the constituents in the effluent do not appear to currently be at levels that would require dilution or special treatment prior to use on fodder, fiber or feeds crops.

A water balance was recently prepared by the District to determine the ultimate disposal capacity needed based on the WWTP capacity of 3.25 MGD. Based on the following assumptions; (1) no effluent to composting facility, (2) no storage pond percolation, (3) all alfalfa farmed, (4) no additional effluent storage facilities needed and (5) typical precipitation, we estimate that the District would require, at a minimum, 1,200 acres of viable farm land for disposal of its effluent. The water balance is attached for reference. We estimate that increasing the District's storage capacity by approx 30% would decrease the farmland required to approximately 750 acres.

Based on the District's currently permitted capacity of 2.0 MGD and the same assumptions listed above, we estimate the District would require, at a minimum, 425 acres available for disposal.

Search for Viable Farmland

The District staff performed a three mile radius search around the Wastewater Treatment Plant (WWTP) looking for property owners/farmers that would be interested or willing to receive the District's effluent for use on fodder, fiber and feed crops as permitted in the District's WDR. District staff met with farmers within this three miles radius of the WWTP owning a half a section of land (320 acres) or more. The coordination and monitoring of many property owner's which own less than 320 acres would be a tumultuous task for the District, not to mention permitting issues and the increased cost of infrastructure. The property owners/farmers that the District has met with are as follows:

Property Owner /Farmer	Approx location of land relative to WWTP	Approx Quantity of Land (ac)	Crops Grown	Willing to accept effluent
Kootstra L P	2 miles to SW	+2,000	Corn, Alfalfa, or Wheat	No
	1.5 miles W	400	Corn, Alfalfa, or Wheat	No
	3 miles NW	320	Corn, Alfalfa, or Wheat	No
Haagsma & Pinheiro Dairy	0.25 miles SW	480	Corn, Alfalfa, or Wheat	No
Haagsma David & Lisa	2 miles SW	320	Corn, Alfalfa, or Wheat	No
Fry T & R Family Trust	1 mile S	640	Table Grapes	No
	2-3 miles SE	1,840	Corn, Alfalfa, or Wheat	No
City of Bakersfield	1-3 miles W	+2,000	Corn, Alfalfa, or Wheat	Possibly on a Temporary Basis
Tillema Family Trust	2.5 miles W	+1,500	Corn, Alfalfa, or Wheat	TBD

Kaiser	1-4 miles SW	640	Corn, Alfalfa, or Wheat	No
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None of the property owners/farmer list above expressed interest in taking the District's effluent for disposal on the fodder, fiber and feed crops. The most common reasons for the refusal include the desire to not be involved with the pending litigation or to not jeopardize the relationship that particular owner/farmer may have with the CR&RR of which provides compost for their farming operation. The only possibility, which is still in question, is the City of Bakersfield's offer to take the District's effluent on a temporary basis (not to exceed five years). The District has received mixed responses from the City of Bakersfield regarding the City's willingness to dispose of the District's effluent on a temporary basis. As explained by the City's staff, this temporary solution would require the installation of approximately 4 miles of pipeline and a pump station, which we estimated at a cost of \$4-5 million dollars.

District Purchase of Farmland

The District has looked into purchasing viable farmland located in close proximity to the WWTP (1 to 2 miles). It is preferable that this land is down gradient of the WWTP to reduce operating and maintenance costs associated with pumping the effluent to the property. In working with a real estate broker, the District identified approximately 320 acres directly east of and adjacent to the District's southerly effluent storage ponds. This land would require the necessary infrastructure to deliver the effluent to the properties. Approx 160 of those acres would require a change in crop to a fodder, fiber or feed crop. According to the District staff, the cost of the land could be as much as \$8 million dollars and another \$500,000 in infrastructure.

The District has considered the idea of exercising eminent domain to acquire the necessary farmland to dispose of its effluent. According to legal counsel, this process could take as long as two years and be quite costly.

Improved Treatment

The District has explored the possibility of improving the level of treatment of its wastewater in an effort to increase its options for disposal. Treating the wastewater to a disinfected tertiary level would allow for disposal on food crops, landscaping, golf courses, ect. The cost of upgrading the District's 3.25 MGD treatment plant to disinfected tertiary is estimated to be between \$25 and \$40 million dollars. The cost for a transportable sewage treatment plant that produces tertiary effluent is in the range of \$12 to \$40 million dollars. Although improving treatment is an option, this doesn't resolve the immediate problem of disposal and due to the location of the WWTP, disposal on landscaping, golf courses or parks is not a practical solution.

There is the possibility of discharging the District's tertiary treated effluent to a water purveyor such as Kern Delta Water District. Kern Delta has facilities located approximately 3.25 miles east of the District's WWTP on Bear Mountain Blvd. If the District produced tertiary water, the regulations mostly likely would not limit its use. Politics may play a big role in preventing this from happening. Contacts need to be made to determine if this is a viable option.

Funding

The District is continually searching for a way to fund a viable alternative should one be found. Requests for funding from the County of Kern have been made and then denied. Currently, funding through programs such as the State Revolving Funds (SRF) are being investigated. Should low interest loans through programs similar to SRF become available for implementation of an alternative disposal method, the financial impact to the District could be as high as 8 million dollars depending on

the alternative use selected. The magnitude of this type of financial impact could be detrimental to the District's survival.

The alternatives investigated to date by the District are very costly, in the neighborhood of 8-10 million dollars. The residents of Lamont cannot afford a rate increase of possibly three to four times their current rates. Past attempts by the District to raise rates as little as 25% became almost impossible to gain voter approval. Provided that a rate increase requires a Prop 218 vote with two-thirds approval, it is unlikely the District will gain voter approval to raise rates possibly 3 to 4 times the current rate to cover any proposed alternative to the composting facility.

Contingency Plan/Schedule

Based on the District's research and all the information gathered thus far, the best alternative to the composting facility is the disposal of effluent via farming on District owned land.

As previously discussed, the District owns 640 acres, of which 135 acres is being used by the District for the WWTP and storage ponds. When or if the composting operation was to be removed from the property, the District would have a total of 505 acres of land available for disposal of effluent via farming of fodder, fiber or feed crops. Of the 505 acres, 160 acres is claimed to need significant grading and soil conditioning to achieve something that is farmable. The District is currently working with a certified soils laboratory to determine the possibility of using this land for farming and to determine what would be required to achieve this, if anything.

It appears, based on recently updated influent flow data and the corresponding calculated effluent volumes, that the District's 505 acres of land may be adequate for disposal of effluent up to the permitted capacity of 2.0 MGD. As ADF's increase and additional land is needed, the District would pursue additional disposal land via purchase or lease agreement.

Currently most of, if not all, the infrastructure required to transport effluent to the use locations, including the 160 acres, is in place and being utilized by CR&RR. With minimal modifications, this same infrastructure could be used by the District to dispose of effluent over most of the District's property. In the event of the closure of composting facility, CR&RR's closure plan, as required by the RWQCB, would buy the District some time to get the use areas prepared for effluent disposal.

The District is also considering the possibility of replacing CR&RR with an alternative composting operation should CR&RR be closed or go out of business. Several composting operations have shown interest.